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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,345	02/12/2004	Kyung-geun Lee	1793.1182	1717

49455 7590 04/16/2007  
STEIN, MCEWEN & BUI, LLP  
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SUITE 300  
WASHINGTON, DC 20005

EXAMINER
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PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2627

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/776,345	LEE, KYUNG-GEUN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Aristotelis M. Psitos	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Applicants' response of 1/23/07 has been considered with the following results.

#### *Information Disclosure Statement*

The IDS filed on 3/5/07 has been received and made of record.

The examiner groups the claims into 3 areas: a) claims 1-17 having "compatibility information", b) claims 18-23 – having either a multi-pulse or single pulse write strategy information, and group c) having optimal writing pattern information.

As far as the claims recite positive limitations and as interpreted by the examiner, the following positions are taken.

#### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-32 of U.S. Patent No. 7009926 in view of the acknowledged prior art.

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Claim 1 of the above patent is drawn to an apparatus (controller) which detects compatibility information from an optical disc.

The optical disc is the claimed invention in this application.

Hence, the examiner concludes that the optical disc is either obvious in view of the above noted claim since the above patent must detect an optical disc, and such must exist in order for the above patent to operate, or obvious in view of the above noted claim and the acknowledged prior art that discusses the recited areas, i.e., the read-in, read-out, user data area.

With respect to dependent claims 2-17 – they find full correspondence in claims 2-17 of the above noted patent.

With respect to present independent claim 18 vs. claim 18 in the patent, similar analysis is made, i.e., the controller in patent claim 18 detects the appropriate compatibility information from an optical disc, and the optical disc is the invention in the pending claim 18.

Remaining dependent claims 19-32 find correspondence in claims 19-32 in the patent and no further analysis is made.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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2. Claims 1,2,4,5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsutsui further considered with the acknowledge prior art.

Tsutsui us drawn to an optical disc that is compatible both to "old standard" and "new standard" drives, see the abstract. Further attention is drawn to the disclosure starting at col. 7 line 58, as well as the old and new formats (standards) as discussed with respect to figures 2 and 3 respectively.

The information is found in the appropriate toc are (management area/zone).

There is no clear depiction of the lead-in, lead-out and user data areas as recited.

Nevertheless, these areas are well known as acknowledged by applicants in their description of the prior art/background art.

The use of existing discs with the appropriate lead-in, lead-out and user areas is considered an obvious expedience, i.e., use of already manufactured discs.

With respect to the wherein clause of claim 1, the examiner so interprets the use of the newer standard discussed in Tsutsui.

With respect to claim 2, the examiner also interprets such as indicative of the optimal writing pattern, since each A/B codec is written in the optimum pattern.

The limitations of claims 4,5 and 7 are met.

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of the known –DVD – physical specifications version 1.9, July 1998, as noted in Sasa et al ('595).

The Inazawa et al document describes the ability of providing information with respect to the modulation technique as part and parcel of the information provided on the disc. Although there is no

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clear depiction of the multi-pulse and or single pulse write strategy, such are well known/taught as indicated in the Sasa et al reference – see col. 8 starting at line 39 with respect to the July version 1.9 of DVD Specifications. The examiner does not have a ready copy of such, however, the description in Sasa et al is sufficient to meet the limitations of this claim.

It would have been obvious to modify the base system of Inazawa et al with such a write strategy, motivation is to use existing strategies in order to make compatible newer versions of information and save the use the added expense of continually buying “new” versions of an optical rec/repro. Apparatus.

***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection, i.e., due to its dependency upon claim 1.

4. Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Okanishi.

With respect to claims 12-15, the various features are depicted – taught by the Okanishi document – see the discussion with respect to figure 3.

It would have been obvious to modify the base system of Inazawa et al with such a format teaching from Okanishi – for the reasons stated therein.

***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection, i.e., due to their dependency upon claim 1.

5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 12 above, and further in view of Sasa et al.

The information so recited with respect to the writing patterns is known – and relied upon in this environment for the inherent ability thereof – such is depicted/taught by the Sasa et al reference.

It would have been obvious to modify the base systems as relied upon above with respect to claim 12 and further modify them with the above teaching from Sasa et al, motivation is to use existing formatting capabilities and

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hence save valuable resources – such as time – in developing a different format in order to be compatible with those used in the present world.

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection, i.e., due to its dependency upon claim 12/1.

6. Claims 18,19,20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsutsui considered with the acknowledged prior art, both further considered with the noted July 1998 version 1.9 DVD specification as noted in Sasa et al.

Tsutsui and the acknowledged prior art are relied upon for the reasons stated above – i.e., the 3 physical structural components of an optical disc.

The information with respect to the pulse strategy is considered further obvious in view of such depiction as noted in the noted passage in Sasa et al.

It would have been obvious to modify the base system of Tsutsui and the acknowledged prior art with such a write strategy, motivation is to use existing strategies in order to make compatible newer versions of information and save the use the added expense of continually buying “new” versions of an optical rec/repro. Apparatus.

With respect to claim 19, such is considered present in – i.e., the A/B codec information portion..

With respect to claims 20 and 21, such are present – i.e., this is a read only area (management area/zone).

With respect to claim 22, such is considered present – i.e., such information must be recorded in the control zone, and hence it has a recordable area.

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

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7. Claims 24-26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsutsui further considered with the acknowledged prior art and both further considered with Sasa et al.

Tsutsui and the acknowledged prior art are relied upon for the reasons stated above.

Furthermore, as disclosed in Sasa et al, his system provides for optimum recording see the discussion with respect to figure 3.

It would have been obvious to modify the base system of Tsutsui and the acknowledged prior art with the above noted teaching of Sasa et al, motivation is as discussed in Sasa et al, to optimize.

With respect to claims 25,26 and 27, such are present in the base reference to Inazawa et al.

#### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

8. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 24 above, and further in view of Yamagami et al.

The additional limitations are disclosed/taught by the Yamagami et al reference – see the description with respect to figure 4.

It would have been obvious to modify the base system of Tsutsui and the acknowledged prior art with the above teachings from Yamagami et al, motivation is to ensure disk compatibility with a plethora of re/rep. System, as well as providing the various information required in order to reproduce information recorded onto the disc.

#### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection due to their dependency upon claim 28.

9. Claims 6,8,21,23,27,and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1, 18, 24 respective above, and further in view of acknowledged prior art.



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As argued by applicant these types of signals are well known to those of ordinary skill in the art. It would have been obvious to modify the base systems as relied upon above as discussed with respect to claims 1, 18 and 24 and modify such to use established recording procedures is considered obvious to one of ordinary skill in the art, motivation is to use established procedures and hence save resources by not having to create/invent new procedures.

### ***Conclusion***

#### ***Allowable Subject Matter***

Claims 9, 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable over the applied references as stated in paragraphs 2-9 above if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-Thursday: 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aristotelis M Psitos  
Primary Examiner

